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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/722,398

11/28/2003

Reingard Hiesinger

P69334US0

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12/10/2004

JACOBSON, PRICE, HOLMAN & STERN
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EXAMINER

SMITH, ARTHUR A

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/722,398

Applicant(s)

HIESINGER, REINGARD

Examiner

Arthur A Smith

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1,2, 4 and 6-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1,2, 4 and 6-25 are objected to because of the following informalities:

The claims in general are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. In general replace the terms "such as," "or the like," "respectively," "in such a way," "in particular" "however" "is designed" and any other terminology that renders the claims indefinite.

In particular the examiner would suggest the following:

Rewrite claim 1 so as to read:

A variable background for photographic pictures, comprising:

a flexible basic body which supports the object to be photographed and at least one adjustment device for modifying the shape of the basic body;

wherein the flexible basic body has such a stiffness that it can take different shapes and keeps a smooth surface when the shape is modified;

wherein the adjustment device comprises openings obtained at least on one side of the flexible body by means of punchings and a string or fiber being guided alternately through said openings; and

wherein at least one end of the string or fiber can be fixed by means of a fixing means.

The claims in general use indefinite language, in particular "or the like" and "such as"

In reference to claim 2, delete "and/or" and replace it with - - or - - since there does not appear to be a disclosure of a combination of both colorless and colored foil.

In claim 4, after "formed" insert - - either - - and delete "respectively".

Rewrite claim 6 so as to read:

The variable background according to claim 1, wherein at least on one of the cross sides of the flexible basic body reinforcements are provided; and

wherein the reinforcements comprise either metal bows, plastic.

Claim 10 is unclear to the examiner.

Claims 14-16 in the second to last lines delete "an the frame parts can be connected to each other" to eliminate redundancy.

Claim 20 is unclear to the examiner.

Claims 20 and 22 are objected to because they recite the limitation "the frame." There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Response to Arguments

Applicant's arguments, see pages 7-10, filed 9/28/04, with respect to claims 1-7, 12-14, 16, 17, 19, 21 and 22 have been fully considered and are persuasive. The rejection of claims 1-7, 12-14, 16, 17, 19, 21 and 22 has been withdrawn.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cloud Dome Products and Accessories obtained from the website <http://www.clouddome.com/>. The earliest publication date of this disclosure that

Art Unit: 2851

the examiner was able to obtain at the time of this office action was December 3, 2003 which was achieved through the internet archiving website <http://web.archive.org>.

Novoflex Magic Studio (description obtained from the website

http://www.novoflex.de/english/html/co_ems.php and the disclosure date of at least

December 2002 from the website

http://www.shutterbug.net/show_reports/1202sb_tripods, see page 2 under heading

"Studio Stuff"). The publication dates of these references do not predate Applicant's

filing date of 11/28/03 and thus they are only being made of reference to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur A Smith whose telephone number is (571) 272 2129. The examiner can normally be reached on Monday - Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (572) 272 2258. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2851

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur A. Smith
December 8, 2004